SENATE TAXATION
EXHIBIT NO. 4
DATE 1.27.11
BILL NO. SB199

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0244		**Title:**	Revise income taxes for taxpayers
Primary Sponsor:	Balyeat, Joe		**Status:**	As Amended in Senate Committee

☐ Significant Local Gov Impact ☐ Needs to be included in HB 2 ☑ Technical Concerns

☐ Included in the Executive Budget ☑ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	($577,000)	($454,000)	($523,000)	($785,000)
State Special Revenue	$0	($87,000)	($175,000)	($262,000)
Net Impact-General Fund Balance	($577,000)	($454,000)	($523,000)	($785,000)

Description of fiscal impact:
This bill has two provisions with fiscal impact:

- It reduces late payment penalties, beginning in FY 2010. The reduction in revenue will phase in over about three years, eventually being about $1 million per year, with about 75% of the reduction affecting the general fund and 25% affecting a variety of state special revenue funds.
- It removes the floor on the interest rate on late income tax payments, beginning FY 2010; the revenue reduction will vary from $0 to about $0.5 million per year depending on interest rates.

FISCAL ANALYSIS

Assumptions:

Late Payment Penalties

1. Under current law, late payment penalties for taxes other than individual income tax, telecommunications tax, accommodations tax and rental car tax are calculated as 1.2% times the number of months the payment is late, up to a maximum of 12%. This bill would change the penalty to 0.5% per month with a maximum of 12%.
2. Under current law, a month's late payment penalty is assessed for a full month or fraction of a month that payment is late. This bill would require that late payment penalty accrue daily.

3. Penalty and interest payments are recorded separately from other collections in the state accounting system only for the income tax, corporate tax, oil and gas tax, and telecommunications tax. Penalty and interest are recorded together in the same account for all of these taxes. For FY 2008, penalty and interest for these taxes was 1.10% of collections.
4. Collections of taxes that would be affected by this provision were $761.084 million in FY 2008.
5. This fiscal note assumes that penalty and interest were the same percentage of collections for these taxes as for the taxes where it is recorded separately, that penalty and interest payments are half penalty and half interest, and that late payments on which penalties are charged will continue at the FY 2008 level. Under current law, late payment penalties for taxes affected by this bill would be $4.186 million (1/2 x 1.10% x $761.084 million).
6. For payments between 1 and 10 months late, late payments under this bill would be 58% lower than payments under current law. For payments between 11 and 23 months late, late payments under this bill range from 54% to 4% lower than payments under current law. For payments 24 or more months late, late payments under this bill would be the same as under current law. The range of timing for late payments is unknown. This fiscal note assumes that, on average, late payments under this bill would be 25% lower than under current law. This is equivalent to payments averaging 18 months late.
7. Under this bill, late payment penalties will be $1.047 million per year (25% x $4.186 million) lower than under current law.
8. This provision would apply to late payments for tax reporting periods beginning after June 30, 2009. The full effect of the change would not be felt until payments for tax year 2010 are 18 months late, in FY 2013. The effect in FY 2010 would be minimal. The effect in FY 2011 would be about 1/3 of the full effect, or $0.349 million. The effect in FY 2012 would be about 2/3 of the full effect, or $0.698 million.
9. In FY 2008, 75% of the revenue from taxes affected by this proposal went to the general fund and 25% went to a variety of state special revenue funds. Assuming that this ratio will hold in the future, the revenue reductions in assumption 10 will be allocated as follows:

	FY 2010	FY 2011	FY 2012	FY 2013
General fund	$0.000	-$0.262	-$0.523	-$0.785
State special revenue	$0.000	-$0.087	-$0.175	-$0.262
Total	$0.000	-$0.349	-$0.698	-$1.047

10. Section 4 would prohibit the Department of Revenue from charging underpayment interest on a taxpayer who has met the requirements for the amount of tax paid through withholding and estimated payments and who has made "approximately equal" quarterly estimated payments. Depending on the standard for "approximately equal" (see Technical Note 2), few taxpayers would be affected by this provision, and the change in interest collected from them would be minimal.

Interest on Late Payments

11. Under current law, interest on late income tax payments is charged at the higher of the federal rate and 8%. This bill would make the state rate equal to the federal rate.
12. The federal rate is calculated by adding 3% to the average of rates for federal notes and bonds maturing within three years and rounding to the nearest full percentage point. Based on Global Insight's forecast of interest rates on federal notes and bonds, the federal rate is projected to be 5% for FY 2010, 7% for FY 2011, and 8% for FY 2012 and FY 2013.
13. Penalty and interest payments for income tax are recorded together in the state accounting system. For FY 2006 through FY 2008, income tax penalty and interest averaged $3.080 million.
14. Assuming that this amount is half penalty and half interest, and late payments on which interest is assessed will continue at the average rate of the last three years, income tax late payment interest at 8% would be $1.540 million. With the lower rates for FY 2010 and FY 2011 in assumption 14, income tax late payment interest would be $0.963 million in FY 2010 and $1.348 million in FY 2011. This would

reduce general fund revenue by $0.577 million in FY 2010 and $0.192 million in FY 2011. There would be no change in FY 2012 and FY 2013.

Inclusion of Federal Refunds in Adjusted Gross Income

15. Section 3 of this bill gives a procedure for determining the portion, if any, of a taxpayer's federal income tax refund to be included in adjusted gross income. The provisions of this bill are the same as the current provisions in administrative rule, and there would be no effect on income tax revenue.

	FY 2010 Difference	**FY 2011 Difference**	**FY 2012 Difference**	**FY 2013 Difference**
Fiscal Impact:				
Revenues:				
General Fund (01)	($577,000)	($454,000)	($523,000)	($785,000)
State Special Revenue (02)	$0	($87,000)	($175,000)	($262,000)
TOTAL Revenues	($577,000)	($541,000)	($698,000)	($1,047,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($577,000)	($454,000)	($523,000)	($785,000)
State Special Revenue (02)	$0	($87,000)	($175,000)	($262,000)

Long-Term Impacts:

1. The revenue impact of the change to late payment interest will vary from year to year. In years when the federal rate is 4.5% or higher, there will be no revenue impact. In years when the federal rate is lower than 4.5%, there will be a revenue reduction, with a lower federal rate leading to a larger revenue reduction.

Technical Notes:

1. Section 4 would prevent the department from charging underpayment interest if a taxpayer had met the requirements for the amount of taxes to be paid through withholding and estimated payments and had "paid approximately equal quarterly installments of estimated taxes." The bill does not provide a standard for determining whether estimated payments are approximately equal. The department would have to set a standard through administrative rule.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*